

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

VICTORIA YVONNE BENAVIDEZ,

Plaintiff,

vs.

CIV NO. 09-0621 CG

MICHAEL J. ASTRUE,  
Commissioner of the  
Social Security Administration,

Defendant.

**ORDER GRANTING EAJA FEES**

**THIS MATTER** is before the Court on Plaintiff's *Motion for Attorney Fees Under Equal Access to Justice Act with Memorandum in Support Thereof* ("Motion") (Doc. 24) and its accompanying *Affidavits* of attorney and legal assistant time (Docs. 24-1, 24-2, 24-3), which were filed on August 11, 2010. Defendant filed his response on August 26, 2010, and he does not oppose the *Motion*. *Defendant's Response to Plaintiff's Motion for Attorney Fees Pursuant to EAJA* (Doc. 27).

**IT IS THEREFORE ORDERED** that Plaintiff's *Motion* (Doc. 24) is **GRANTED**, and Plaintiff Victoria Yvonne Benavidez<sup>1</sup> is authorized to receive **\$3,989.70** in fees for payment to her attorneys for services before this Court.<sup>2</sup>

**IT IS SO ORDERED.**



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**THE HONORABLE CARMEN E. GARZA**  
**UNITED STATES MAGISTRATE JUDGE**

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<sup>1</sup> See *Manning v. Astrue*, 510 F.3d 1246, 1251 (10th Cir. 2007) (requiring EAJA fees to be paid to the claimant).

<sup>2</sup> In the future, if Ms. Benavidez' counsel is also awarded attorney fees pursuant to 42 U.S.C. § 406(b), they shall refund the smaller award to Ms. Benavidez pursuant to *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002) ("Fee awards may be made under both [EAJA and § 406(b)], but the claimant's attorney must refund to the claimant the amount of the smaller fee." (internal quotation marks and alteration omitted)).